

§ 301.6222(b)-2T

form prescribed for that purpose in accordance with the instructions accompanying that form.

[T.D. 8128, 52 FR 6782, Mar. 5, 1987]

§ 301.6222(b)-2T Effect of notification of inconsistent treatment (temporary).

(a) *In general.* Generally, if a partner treats a partnership item on the partner's return in a manner which is inconsistent with the treatment of that item on the partnership return the Service may make a computational adjustment to conform the treatment of the item by the partner with the treatment of that item on the partnership return. Any additional tax resulting from that computational adjustment may be assessed without either the commencement of a partnership proceeding or notification to the partner that all partnership items arising from that partnership will be treated as nonpartnership items. However, if a partner notifies the Service of the inconsistent treatment of a partnership item in the manner prescribed in § 301.6222(b)-1T, the Service generally may not make an adjustment with respect to that partnership item unless the Service—

(1) Conducts a partnership-level proceeding, or

(2) Notifies the partner under section 6231(b)(1)(A) that all partnership items arising from that partnership will be treated as nonpartnership items.

See, however, §§ 301.6231(c)-1T and 301.6231(c)-2T for special rules relating to certain applications and claims for refund based on losses, deductions, or credits from abusive tax shelter partnerships.

(b) *Partner protected only to extent of notification.* A partner who reports the inconsistent treatment of partnership items on the partner's return is protected from computational adjustments under section 6222(c) only with respect to those partnership items the inconsistent treatment of which is reported. Thus, if a partner notifying the Service with respect to one item fails to report the inconsistent treatment of another item, the partner is subject to a computational adjustment with respect to that latter item.

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Example. Partner A of Partnership P treats a deduction and a capital gain arising from P on A's return in a manner that is inconsistent with the treatment of those items by P. A reports the inconsistent treatment of the deduction but not of the gain. A is subject to a computational adjustment under section 6222(c) with respect to the gain.

(c) *Adjustments in a separate proceeding not limited to conforming adjustments.* If the Service conducts a separate proceeding with a partner whose partnership items are treated as nonpartnership items under section 6231(b), the Service is not limited to making adjustments that merely conform the partner's return to the partnership return.

Example. Partnership P allocates to E, one of its partners, a loss of \$8,000. E, however, claims a loss of \$9,000 and reports the inconsistent treatment. The Service notifies E that it will treat all of E's partnership items arising from P as nonpartnership items. As a result of a separate proceeding with E, the Service may issue a deficiency notice which could include reducing the loss to \$3,000.

[T.D. 8128, 52 FR 6782, Mar. 5, 1987]

§ 301.6222(b)-3T Partner receiving incorrect schedule (temporary).

(a) *In general.* A partner shall be treated as having complied with section 6222(b)(1)(B) and § 301.6222(b)-1T with respect to a partnership item if the partner—

(1) Demonstrates that the treatment of the partnership item on the partner's return is consistent with the treatment of that item on the schedule prescribed by the Service and furnished to the partner by the partnership showing the partner's share of income, credits, deductions, etc., and

(2) Elects in accordance with the rules prescribed in paragraph (b) of this section to have this section apply with respect to that item.

(b) *Election provisions—(1) Time and manner of making election.* The election described in paragraph (a) of this section shall be made by filing a statement with the Internal Revenue Service office issuing the notice of computational adjustment within 30 days after the notice is mailed to the partner.

(2) *Contents of statement.* The statement described in paragraph (b)(1) of this section shall be:

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(i) Clearly identified as an election under section 6222(b)(2),

(ii) Signed by the partner making the election, and

(iii) Accompanied by copies of the schedule furnished to the partner by the partnership and of the notice of computational adjustment. The partner need not enclose a copy of the notice of computational adjustment, however, if the partner clearly identifies the notice of computational adjustment.

Generally, the requirement described in paragraph (a)(1) of this section will be satisfied by attaching to the statement a copy of the schedule furnished to the partner by the partnership. However, if it is not clear from the information contained on the schedule that the treatment of the partnership item on the schedule is consistent with the partner's treatment of such item on the partner's return the statement shall also include an explanation of how the treatment of such item on the schedule is consistent with the treatment on the partner's return with respect to the characterization, timing, and amount of such item.

[T.D. 8128, 52 FR 6782, Mar. 5, 1987]

§ 301.6223(a)-1T Notice sent to tax matters partner (temporary).

(a) *In general.* For purposes of subchapter C of chapter 63 of the Code, a notice is treated as mailed to the tax matters partner on the earlier of—

(1) The date on which the notice is mailed to "THE TAX MATTERS PARTNER" at the address of the partnership (as provided on the partnership return, except as updated under § 301.6223(c)-1T), or

(2) The date on which the notice is mailed to the person who is the tax matters partner at the address of that person (as provided on the partner's return, except as updated under § 301.6223(c)-1T) or the partnership. See § 301.6223(c)-1T for rules relating to the information to be used by the Service in providing notices, etc.

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. Partnership P designates B as its tax matters partner in accordance with

§ 301.6231(a)(7)-1T(b). On December 1 a notice of the beginning of an administrative proceeding is mailed to "THE TAX MATTERS PARTNER" at the address of P. On January 10, a copy of the notice is mailed to B at B's address. December 1 is treated as the date that the notice was mailed to the tax matters partner.

[T.D. 8128, 52 FR 6783, Mar. 5, 1987; 52 FR 9296, Mar. 24, 1987]

§ 301.6223(a)-2T Withdrawal of notice of the beginning of an administrative proceeding (temporary).

(a) *In general.* If the Internal Revenue Service, within 45 days after the day on which the notice specified in section 6223(a)(1) is mailed to the tax matters partner, decides not to propose any adjustments to the partnership return as filed, the Service may withdraw the notice specified in section 6223(a)(1) by mailing a letter to that effect to the tax matters partner within that 45-day period. If the Service withdraws the notice, neither the service nor the tax matters partner is required to furnish any notice with respect to that proceeding to any other partner. Except as provided in paragraph (b) of this section, a notice specified in section 6223(a)(1) which has been withdrawn shall be treated for purposes of subchapter C of chapter 63 of the Code as if that notice had never been mailed to the tax matters partner.

(b) *Service may not reissue notice except under certain circumstances.* If the notice specified in section 6223(a)(1) was mailed to the tax matters partner with respect to a partnership taxable year and that notice was later withdrawn as provided in paragraph (a) of this section, the Service shall not mail a second notice specified in section 6223(a)(1) with respect to that taxable year unless:

(1) There is evidence of fraud, malfeasance, collusion, concealment, or misrepresentation of a material fact;

(2) The prior proceeding involved a clearly defined substantial error with respect to an established Service position existing at the time of the previous examination; or

(3) Other circumstances exist which indicate that failure to reissue the notice would be a serious administrative omission.

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